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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			ROSEN, NICHOLAS D	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,074

Applicant(s)

KUNIGITA, HISAYUKI

Examiner

Nicholas D. Rosen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7-13,15,17,19-24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,8-13,15,17,19-24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/25/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1, 3, 5, 7-13, 15, 17, 19-24, and 26-28 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5 and 7

Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality"), the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," hereinafter "Viking," and official notice. As per claim 1, Bornstein discloses an electronic system, comprising: a user terminal operable by a user, the user terminal including a display (column 6, lines 41-61; column 9, lines 23-53) and a user input interface operable to receive input from a user (implied from the ability to manipulate images from a client computer, column 9, lines 54-62); a first unit storage operable to store image data of commodities (column 16, line 44, through column 17, line 5); a second storage unit operable image data of backgrounds (column 16, line 54; column 17, lines 19-50); a first acquisition unit operable to acquire content data of one of the commodities (column 18, lines 1-10; column 21, lines 34-39) and content data of one of the backgrounds selected by the

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user (column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32); a second acquisition unit operable to acquire image data representing an image of the one commodity from the first storage unit (column 18, lines 1-10; column 21, lines 34-39) and image data of the one background from the second storage unit (column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32); a graphics unit operable to produce a display image by combining an image of the one commodity created from the image data of the one commodity and an image of the one background created from the image data of the one background (Abstract; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and a supply unit operable to supply the display image to the user terminal, thereby enabling the display image to be displayed on the display (Abstract; column 21, lines 40-66; column 22, line 53, through column 23, line 9).

Bornstein does not disclose that the commodities (articles of clothing) in his invention are for sale to the user, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs beginning from, "More and more, e-retailers are using technology," and two paragraphs beginning from, "The future, he says, is in allowing"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the commodities be for sale to users, and the electronic system therefore be an electronic commerce system, for the obvious advantage of profiting from the sale of commodities.

Bornstein does not quite explicitly disclose that the graphics unit is operable to extract coordinates of the image of the one commodity that can be seen from a viewpoint selected by the user from among a plurality of different user-selectable

viewpoints, but extraction of coordinates is implied (column 9, lines 54-68; column 25, lines 40-61), and in any case requisite to Bornstein's disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user from among a plurality of user-selectable viewpoints (three paragraphs beginning from "Manolo Blahnik merchandise"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit extract the coordinates, and for an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein further discloses acquiring (by manipulation) a 3-dimensional image of the commodity (column 4, lines 41-61; column 5, lines 12-39).

Bornstein does not disclose that the user terminal has a user input interface operable to receive input from a user for purchasing a commodity, but such input is inherent for enabling users to order commodities, as is widely known, and implied, for example, by Pry ("the flat, two-dimensional order forms of the past" in the paragraph beginning, "More and more, e-retailers are using technology"), and by "Viking" ("enables customers to enter catalog orders directly online," in the paragraph beginning, "The new site incorporates many innovative features"). Hence, this would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, on the same grounds as having the commodities be for sale to users.

Bornstein does not disclose the first storage unit storing user history data including information concerning one or more prior purchases of one or more

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commodities by the user, or the supply unit supplying the user purchase history data to the user terminal, enabling the user purchase history data to be displayed, whereby the supply unit is operable to display the user purchase history data for reference by the user in considering purchase of the depicted commodity, and the user input interface is operable to receive user input for purchasing the commodity in response to the display of the display image, but “Viking” teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning “Customers on www.VikingOP.com will find,” and the items listed thereunder, “Order History” in particular), which implies storing and supplying the data. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to store, supply, and display the purchase history, for the obvious advantage of encouraging and assisting further purchases (e.g., “The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order”).

Bornstein does not expressly disclose adjusting a scale of the custom image data prepared by the user, but does disclose adjusting a scale of an image of the commodity to fit a custom image of the background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention, for the stated advantage of making the commodity image and background image fit one

another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known to incorporate a scale image (e.g., an image of a ruler or other scale) into a display image. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit include a unit for incorporating the scale image into the display image, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

As per claim 3, Bornstein discloses that the graphics unit includes a unit for rotating the image of the one commodity (column 20, lines 31-48; column 21, lines 41-53).

As per claim 5, Bornstein discloses an acquisition unit operable to acquire from a user terminal image data of a background prepared by the user and to store the custom image in a second storage unit (column 19, lines 15-32).

As per claim 7, Bornstein does not disclose that the user terminal is a mobile communication terminal, but official notice is taken that mobile communication terminals (e.g., cell phones, laptop computers, etc.) are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the user terminal to be a mobile communication terminal, for the obvious advantage of enabling users to view images and make purchases when not sitting at a fixed terminal.

Claims 8-11

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality"), and the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," hereinafter "Viking," and official notice. Bornstein discloses an electronic system, comprising: a user terminal operable by a user, the user terminal including a display (column 6, lines 41-61; column 9, lines 23-53) and a user input interface operable to receive input from a user (implied from the ability to manipulate images from a client computer, column 9, lines 54-62); a first unit storage operable to store image data of commodities (column 16, line 44, through column 17, line 5); a second storage unit operable to store image data of backgrounds (column 16, line 54; column 17, lines 19-50); a first acquisition unit operable to acquire content data of one of the commodities (column 18, lines 1-10; column 21, lines 34-39) and content data of one of the backgrounds selected by the user (column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32); a second acquisition unit operable to acquire image data of the one commodity from the first storage unit (column 18, lines 1-10; column 21, lines 34-39) and image data of the one background from the second storage unit (column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32); a graphics unit operable to produce a display image by combining an image of the one commodity created from the image data of the one commodity and an image of the one background created from the image data of the one background (Abstract; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and a supply unit operable to supply the display image to the user terminal, thereby enabling the display image to

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be displayed on the display (Abstract; column 21, lines 40-66; column 22, line 53, through column 23, line 9). Bornstein does not disclose a commodity purchase assistance apparatus connected to the user terminal via a network, said apparatus including the storage units, acquisition units, etc., but Pry discloses business websites accessible over the Internet for electronic shopping and purchasing (entire article). Similarly, Bornstein does not disclose that the commodities (articles of clothing) in his invention are for sale to the user, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs beginning from, "More and more, e-retailers are using technology," and two paragraphs beginning from, "The future, he says, is in allowing"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a commodity purchase assistance apparatus in the system, with other listed unit being included in the commodity purchase assistance apparatus, to have the commodities be for sale to users, and to have the electronic system therefore be an electronic commerce system, for the obvious advantage of profiting from the sale of commodities.

Bornstein does not quite explicitly disclose that the graphics unit is operable to extract coordinates of the image of the one commodity that can be seen from a viewpoint selected by the user from among a plurality of different user-selectable viewpoints, but extraction of coordinates is implied (column 9, lines 54-68; column 25, lines 40-61), and in any case requisite to Bornstein's disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user from among a plurality of user-selectable viewpoints (three paragraphs beginning from "Manolo

Blahnik merchandise”). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to have the graphics unit extract the coordinates, and for an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein further discloses acquiring (by manipulation) a 3-dimensional image of the commodity (column 4, lines 41-61; column 5, lines 12-39).

Bornstein does not disclose that the user terminal has a user input interface operable to receive input from a user for purchasing a commodity, but such input is inherent for enabling users to order commodities, as is widely known, and implied, for example, by Pry (“the flat, two-dimensional order forms of the past” in the paragraph beginning, “More and more, e-retailers are using technology”), and by “Viking” (“enables customers to enter catalog orders directly online,” in the paragraph beginning, “The new site incorporates many innovative features”). Hence, this would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention, on the same grounds as having the commodities be for sale to users.

Bornstein does not disclose the first storage unit storing user history data including information concerning one or more prior purchases of one or more commodities by the user, or the supply unit supplying the user purchase history data to the user terminal, enabling the user purchase history data to be displayed, whereby the supply unit is operable to display the user purchase history data for reference by the user in considering purchase of the depicted commodity, and the user input interface is

operable to receive user input for purchasing the commodity in response to the display of the display image, but "Viking" teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning "Customers on www.VikingOP.com will find," and the items listed thereunder, "Order History" in particular), which implies storing and supplying the data. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to store, supply, and display the purchase history, for the obvious advantage of encouraging and assisting further purchases (e.g., "The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order").

Bornstein does not expressly disclose adjusting a scale of the custom image data prepared by the user, but does disclose adjusting a scale of an image of the commodity to fit a custom image of the background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantage of making the commodity image and background image fit one another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known to incorporate a

scale image (e.g., an image of a ruler or other scale) into a display image. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit include a unit for incorporating the scale image into the display image, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

As per claim 9, neither Bornstein nor Pry discloses that the commodity purchase assistance apparatus further includes a unit to allow the commodity purchase assistance apparatus to function as a server, but official notice is taken that it is well known for computers used to present web sites in electronic commerce, such as the web sites taught by Pry, to include units to allow them to function as servers. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the commodity purchase assistance apparatus further to include a unit to allow the commodity purchase assistance apparatus to function as a server, for the obvious advantage of enabling e-commerce to be feasibly conducted.

As per claim 10, neither Bornstein nor Pry expressly discloses a transmitter unit included in the user terminal, the transmitter unit operable to transmit to the commodity purchase assistance apparatus a request to purchase a commodity, but official notice is taken that such transmitter units (e.g., modems and other requisite components of personal computers) are well known; people could not feasibly order goods over the Web without them. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the user terminal to

include such a transmitter unit, for the obvious advantage of enabling people to make purchases over the Internet.

As per claim 11, neither Bornstein nor Pry expressly discloses that the commodity purchase assistance apparatus includes a unit operable to make an arrangement for delivering the commodity when the request for purchasing the commodity is transmitted thereto from the user terminal, but official notice is taken that such units are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the commodity purchase assistance apparatus to include such a unit, for the obvious advantage of enabling requested commodities to be delivered as ordered, without the trouble and expense of arranging for deliveries manually.

Claim 12

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality"), the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," and official notice, on essentially the same grounds set forth above in the rejection of claim 8.

Claims 13-15, 17, 19, and 20

Claims 13, 15, 17, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality"), the anonymous article, "Viking

Office Products Launches New E-Commerce Site for U.S.," and official notice, on essentially the same grounds set forth above in the rejection of claim 8 (largely parallel to claim 13), and claims 3, 4, 5, 6, and 9, respectively; grounds for rejecting claim 19 on this art is set forth below. Claim 13 is broader than claims 8 and 12 in that it omits recitation of a user terminal in the body of the claim.

Claim 15 is essentially parallel to claim 3.

Claim 17 is essentially parallel to claim 5.

Claim 20 is essentially parallel to claim 9.

As per claim 19, Bornstein discloses that image data of the one background is stored in advance in a second storage unit or supplied from the user terminal (column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32).

Claim 21

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality"), the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," hereinafter "Viking," and official notice. Bornstein discloses a terminal operable by a user, the terminal being connectable via a network to a storage unit operable to store image data of commodities (column 18, lines 1-10; column 21, lines 34-39) and to store image data of backgrounds (column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32), the terminal comprising: a display (column 6, lines 41-61; column 9, lines 23-53); a unit operable by the user to select one of the commodities and one of the backgrounds (column 6, lines 41-61;

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column 9, lines 23-53; column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32); an acquisition unit operable to acquire image data of the one commodity and image data of the one background from the storage device (column 13, lines 15-31; column 16, lines 31-43; column 18, lines 1-10; column 19, lines 15-32; column 21, lines 34-39); a graphics unit operable to produce a display image by combining an image of the one commodity created from the image data of the one commodity and an image of the one background created from the image data of the one background (Abstract; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and a unit operable to display the display image on the display (column 6, lines 41-61; column 9, lines 23-53; it is obvious for the terminal to include units operable to enable it to carry out its functions). Bornstein does not disclose that the commodities (articles of clothing) in his invention are for sale to the user, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs beginning from, "More and more, e-retailers are using technology," and two paragraphs beginning from, "The future, he says, is in allowing"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the commodities be for sale to the user, and the electronic system therefore be an electronic commerce system, for the obvious advantage of profiting from the sale of commodities.

Bornstein does not quite explicitly disclose that the graphics unit is operable to extract coordinates of the image of the one commodity that can be seen from a viewpoint selected by the user from among a plurality of different user-selectable viewpoints, but extraction of coordinates is implied (column 9, lines 54-68; column 25,

lines 40-61), and in any case requisite to Bornstein's disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user from among a plurality of user-selectable viewpoints (three paragraphs beginning from "Manolo Blahnik merchandise"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit extract the coordinates, and for an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein further discloses acquiring (by manipulation) a 3-dimensional image of the commodity (column 4, lines 41-61; column 5, lines 12-39).

Bornstein does not disclose that the acquisition unit acquires user purchase history data including information concerning one or more prior purchases of one or more commodities by the user, or that the unit operable to display image data also displays the user purchase history data for reference by the user in considering purchase of the depicted commodity, but "Viking" teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning "Customers on www.VikingOP.com will find," and the items listed thereunder, "Order History" in particular), which implies acquiring the data to be displayed. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to acquire and display the purchase history, for the obvious advantage of encouraging and assisting further

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purchases (e.g., "The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order").

Bornstein does not expressly disclose adjusting a scale of the custom image data prepared by the user, but does disclose adjusting a scale of an image of the commodity to fit a custom image of the background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantage of making the commodity image and background image fit one another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known to incorporate a scale image (e.g., an image of a ruler or other scale) into a display image. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit include a unit for incorporating the scale image into the display image, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

Claim 22

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality") and the anonymous article, "Viking Office Products

Launches New E-Commerce Site for U.S.," hereinafter "Viking," and official notice.

Bornstein discloses a terminal operable by a user, the terminal being connected via a network to a storage unit operable to store image data of commodities (column 18, lines 1-10; column 21, lines 34-39) and to store image data of backgrounds (column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32), the terminal comprising: a display (column 6, lines 41-61; column 9, lines 23-53); a storage unit operable to store image data of backgrounds (column 16, line 54, through column 17, line 5; column 17, lines 19-50); a unit operable by the user to select one of the commodities and one of the backgrounds (column 6, lines 41-61; column 9, lines 23-53; column 13, lines 15-31; column 16, lines 31-43; column 19, lines 15-32); an acquisition unit operable to acquire image data of the one commodity and image data of the one background from the storage device (column 13, lines 15-31; column 16, lines 31-43; column 18, lines 1-10; column 19, lines 15-32; column 21, lines 34-39); a graphics unit operable to produce a display image by combining an image of the one commodity created from the image data of the one commodity and an image of the one background created from the image data of the one background (Abstract; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and a unit operable to display the display image on the display (column 6, lines 41-61; column 9, lines 23-53; it is obvious for the terminal to include units operable to enable it to carry out its functions). Bornstein does not disclose that the commodities (articles of clothing) in his invention are for sale to the user, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs beginning from, "More and more, e-retailers are using

technology,” and two paragraphs beginning from, “The future, he says, is in allowing”). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to have the commodities be for sale to the user, for the obvious advantage of profiting from the sale of commodities.

Bornstein does not quite explicitly disclose that the graphics unit is operable to extract coordinates of the image of the one commodity that can be seen from a viewpoint selected by the user from among a plurality of different user-selectable viewpoints, but extraction of coordinates is implied (column 9, lines 54-68; column 25, lines 40-61), and in any case requisite to Bornstein’s disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user from among a plurality of user-selectable viewpoints (three paragraphs beginning from “Manolo Blahnik merchandise”). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to have the graphics unit extract the coordinates, and for an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein further discloses acquiring (by manipulation) a 3-dimensional image of the commodity (column 4, lines 41-61; column 5, lines 12-39).

Bornstein does not disclose that the acquisition unit acquires user purchase history data including information concerning one or more prior purchases of one or more commodities by the user, or that the unit operable to display image data also displays the user purchase history data for reference by the user in considering

purchase of the depicted commodity, but “Viking” teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning “Customers on www.VikingOP.com will find,” and the items listed thereunder, “Order History” in particular), which implies acquiring the data to be displayed. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to acquire and display the purchase history, for the obvious advantage of encouraging and assisting further purchases (e.g., “The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order”).

Bornstein does not expressly disclose adjusting a scale of the custom image data prepared by the user, but does disclose adjusting a scale of an image of the commodity to fit a custom image of the background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention, for the stated advantage of making the commodity image and background image fit one another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known to incorporate a scale image (e.g., an image of a ruler or other scale) into a display image. Hence, it

would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit include a unit for incorporating the scale image into the display image, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

Claims 23 and 24

Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality"), and the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," hereinafter "Viking," and official notice. As per claim 23, Bornstein discloses a method comprising: acquiring content data of a particular commodity and content data of a background selected by the user via a user terminal (column 13, lines 15-31; column 19, lines 15-32); acquiring image data corresponding to the particular commodity (column 16, line 44, through column 17, line 5; column 18, lines 1-13; column 21, lines 34-39) and image data corresponding to the selected background from a storage unit (column 19, lines 15-32); producing a display image by combining an image of the particular commodity and an image of the selected background from the acquired image data (Abstract; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and displaying the display image on a display of the user terminal (Abstract; column 6, lines 41-61; column 9, lines 23-53; column 21, lines 40-66; column 22, line 53, through column 23, line 9). Bornstein does not disclose that the method is a method of assisting a user in purchasing commodities, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs

beginning from, "More and more, e-retailers are using technology," and two paragraphs beginning from, "The future, he says, is in allowing"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the commodities be for sale to the user, for the obvious advantage of profiting from the sale of commodities, making the method therefore a method of assisting a user in purchasing commodities.

Bornstein does not quite explicitly disclose extracting coordinates of the image of the particular commodity that can be seen from a viewpoint selected by the user from among a plurality of different user-selectable viewpoints, but extraction of coordinates is implied (column 9, lines 54-68; column 25, lines 40-61), and in any case requisite to Bornstein's disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user from among a plurality of user-selectable viewpoints (three paragraphs beginning from "Manolo Blahnik merchandise"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit extract the coordinates, and for an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein further discloses acquiring (by manipulation) a 3-dimensional image of the commodity (column 4, lines 41-61; column 5, lines 12-39).

Bornstein does not disclose when the user decides to purchase the one commodity, receiving use input for purchasing the one commodity in response to the display of the display image, but receiving such input is inherent for enabling users to

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order commodities, as is widely known, and implied, for example, by Pry ("the flat, two-dimensional order forms of the past" in the paragraph beginning, "More and more, e-retailers are using technology"), and by "Viking" ("enables customers to enter catalog orders directly online," in the paragraph beginning, "The new site incorporates many innovative features"). Hence, this would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, on the same grounds as having the commodities be for sale to users.

Bornstein does not disclose acquiring user purchase history data including information concerning one or more prior purchases of one or more commodities by the user, or displaying the user purchase history data for reference by the user in considering purchase of the depicted commodity, but "Viking" teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning "Customers on www.VikingOP.com will find," and the items listed thereunder, "Order History" in particular), which implies acquiring the data to be displayed. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to acquire and display the purchase history, for the obvious advantage of encouraging and assisting further purchases (e.g., "The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order").

Bornstein does not expressly disclose adjusting a scale of the custom image data prepared by the user, but does disclose adjusting a scale of an image of the commodity

to fit a custom image of the background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantage of making the commodity image and background image fit one another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known to incorporate a scale image (e.g., an image of a ruler or other scale) into a display image. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit include a unit for incorporating the scale image into the display image, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

As per claim 24, Bornstein discloses storing image data of a background prepared by the user in the storage unit (column 19, lines 15-32).

Claim 26

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality"), the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," hereinafter "Viking," and official notice. Bornstein discloses an apparatus comprising: a commodity information database

operable to store image data of commodities (column 16, line 54; column 17, lines 19-39); means for producing a composite image by combining an image of a commodity and an image of a background in accordance with information about the commodity and the background selected by the user based on the database (Abstract; column 17, lines 19-39; column 18, lines 1-13; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and means for supplying the composite image via a network to a terminal operable by the user, thereby enabling the composite image to be displayed on a display of the terminal (Abstract; column 6, lines 41-61; column 9, lines 23-53).

Bornstein does not disclose that the commodities (articles of clothing) in his invention are for sale to the user, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs beginning from, "More and more, e-retailers are using technology," and two paragraphs beginning from, "The future, he says, is in allowing"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the commodities be for sale to users, and the apparatus therefore be a commodity purchase assistance apparatus, for the obvious advantage of profiting from the sale of commodities.

Bornstein does not quite explicitly disclose extracting coordinates of the 3-dimensional image of the particular commodity that can be seen from a viewpoint selected by the user, but extraction of coordinates is implied and (column 9, lines 54-68; column 25, lines 40-61), and in any case requisite to Bornstein's disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user (three paragraphs beginning from "Manolo Blahnik merchandise"). Hence, it would have been

obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the graphics unit extract the coordinates, and to have an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein does not disclose that the commodity information database stores user purchase history data including information concerning one or more prior purchases of one or more of the commodities by the user, or disclose means for supplying the user purchase history data to be displayed on a display of the terminal for reference by the user in considering purchase of the depicted commodity, but "Viking" teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning "Customers on www.VikingOP.com will find," and the items listed thereunder, "Order History" in particular), which implies acquiring the data to be displayed. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to store and display the purchase history, for the obvious advantage of encouraging and assisting further purchases (e.g., "The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order").

Bornstein does not expressly disclose the composite image including a scale image prepared by the user by adjusting a scale of the custom image data, but does disclose adjusting a scale of an image of the commodity to fit a custom image of the

background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantage of making the commodity image and background image fit one another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known for an image to include a scale image (e.g., an image of a ruler or other scale). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the composite image include a scale image prepared by the user by adjusting a scale of custom image data, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

Claim 27

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality") and the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," hereinafter "Viking." Bornstein discloses a system comprising a server (Abstract; column 16, line 31, through column 15, line 5) including: a commodity information database (column 16, line 54; column 17, lines 19-39); means for producing a composite image by combining an image of a commodity

and an image of a background in accordance with information about the commodity and the background selected by the user based on the database (Abstract; column 17, lines 19-39; column 18, lines 1-13; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and a terminal operable by the user to view the composite image (Abstract; column 6, lines 41-61; column 9, lines 23-53). Bornstein does not disclose that the terminal is operable to transmit a request to purchase the commodity, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs beginning from, "More and more, e-retailers are using technology," and two paragraphs beginning from, "The future, he says, is in allowing"), and e-commerce systems such as those taught by Pry would be inoperative unless the user terminals were operable to transmit requests to purchase desired commodities. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the terminal be operable to transmit a request to purchase the commodity, for the obvious advantages of being able to buy desired commodities, and, from the other perspective, to profit by the sale of commodities.

Bornstein does not quite explicitly disclose extracting coordinates of the 3-dimensional image of a commodity that can be seen from a viewpoint selected by the user from among a plurality of different user-selectable viewpoints, but extraction of coordinates is implied and (column 9, lines 54-68; column 25, lines 40-61), and in any case requisite to Bornstein's disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user (three paragraphs beginning from "Manolo Blahnik merchandise"). Hence, it would have been obvious to one of ordinary skill in

the art of electronic commerce at the time of applicant's invention to extract the coordinates, and to have an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein does not disclose that the commodity information database stores user purchase history data including information concerning one or more prior purchases of one or more of the commodities by the user, or disclose means for supplying the user purchase history data to be displayed on a display of the terminal for reference by the user in considering purchase of the depicted commodity, but "Viking" teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning "Customers on www.VikingOP.com will find," and the items listed thereunder, "Order History" in particular), which implies acquiring the data to be displayed. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to store and display the purchase history, for the obvious advantage of encouraging and assisting further purchases (e.g., "The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order").

Bornstein does not expressly disclose the composite image including a scale image prepared by the user by adjusting a scale of the custom image data, but does disclose adjusting a scale of an image of the commodity to fit a custom image of the

background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantage of making the commodity image and background image fit one another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known for an image to include a scale image (e.g., an image of a ruler or other scale). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the composite image include a scale image prepared by the user by adjusting a scale of custom image data, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

Claim 28

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bornstein (U.S. Patent 6,144,388) in view of Pry ("Online Retailers Add 3-D, Music, to Web Sites for Sense of Reality") and the anonymous article, "Viking Office Products Launches New E-Commerce Site for U.S.," hereinafter "Viking." Bornstein discloses a system having a first apparatus connected to a network (Abstract; column 16, line 31, through column 15, line 5) and a second apparatus connected to the network and operable by a user (Abstract; column 6, lines 41-61; column 9, lines 23-53), wherein the

first apparatus comprises: means for producing a composite image by combining an image of a commodity and an image of a background (Abstract; column 17, lines 19-39; column 18, lines 1-13; column 21, lines 40-66; column 22, line 53, through column 23, line 9); and means for transmitting the composite image to the second apparatus (Abstract; column 6, lines 41-61; column 9, lines 23-53; column 22, line 53, through column 23, line 9). Bornstein does not disclose that his system is an electronic commerce system having a commodity purchase assistance capability, or that it comprises means for producing information needed to make an arrangement for delivering the commodity to the user in response to a request for purchasing the commodity, but Pry teaches applying manipulation of images to commodities for sale (see especially six paragraphs beginning from, "More and more, e-retailers are using technology," and two paragraphs beginning from, "The future, he says, is in allowing"), and e-commerce web sites such as those taught by Pry would be inoperative unless the servers included means for producing information needed to make arrangements for delivering commodities to purchasers in response to requests. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include such means, for the obvious advantage of profiting from the sale of commodities.

Bornstein does not quite explicitly disclose means for extracting coordinates of the image of the one commodity that can be seen from a viewpoint selected by the user from among a plurality of different user-selectable viewpoints, but extraction of coordinates is implied and (column 9, lines 54-68; column 25, lines 40-61), and in any

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case requisite to Bornstein's disclosed procedures. Pry teaches a commodity that can be seen from a viewpoint selected by a user from among a plurality of user-selectable viewpoints (three paragraphs beginning from "Manolo Blahnik merchandise"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to extract the coordinates, and to have an image that can be seen from a selected viewpoint of a plurality of viewpoints, for the stated advantage of helping shoppers see better (and therefore be more likely to buy).

Bornstein does not disclose means for storing user purchase history data including information concerning one or more prior purchases of one or more of the commodities by the user, or means for supplying the user purchase history data to the second apparatus for reference by the user in considering purchase of the depicted commodity, but "Viking" teaches displaying user purchase data history including information concerning one or more prior purchases of one or more commodities by the user when the user is considering ordering products (see especially the paragraph beginning "Customers on www.VikingOP.com will find," and the items listed thereunder, "Order History" in particular), which implies acquiring the data to be displayed. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to store and display the purchase history, for the obvious advantage of encouraging and assisting further purchases (e.g., "The item I bought before and liked was model X, or size 7 with these features, so if I want another like it, or one just a little larger, I know what to order").

Bornstein does not expressly disclose the composite image including a scale image prepared by the user by adjusting a scale of the custom image data, but does disclose adjusting a scale of an image of the commodity to fit a custom image of the background (column 20, lines 31-48). Shrinking one image is largely equivalent to expanding the other, and vice versa; hence, adjusting a scale of the custom image data prepared by the user is held to have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantage of making the commodity image and background image fit one another appropriately. Bornstein discloses scaling an image of a selected commodity for a display image (column 20, lines 31-48), but does not disclose incorporating the scale image generated by adjusting custom image data prepared by the user into the display image; however, official notice is taken that it is well known for an image to include a scale image (e.g., an image of a ruler or other scale). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the composite image include a scale image prepared by the user by adjusting a scale of custom image data, for the obvious advantage of assisting users in determining the size of objects shown in the image or images.

Response to Arguments

Applicant's arguments filed June 19, 2006, have been fully considered but they are not persuasive. Applicant has amended the claims, canceling some dependent claims, and incorporating their limitations (with slight variations) into the independent

claims. Applicant asserts that none of the citations discloses or suggests the limitations in question, and concludes that the scaled image features are not obvious. Examiner replies that while the prior art documents relied upon do not teach these elements, official notice was taken, and not traversed, that such features are well known. Therefore, there are no grounds presented not to consider these features obvious.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bergersen (U.S. Patent Application Publication 2003/0138752) discloses a dental diagnosis apparatus and method for using the same (note paragraph 87 for taking images while the user positions a ruler or other measuring device near his face to provide scale). Harris (U.S. Patent Application Publication 2006/0178952) discloses enhancing touch and feel on the Internet.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

August 21, 2006